



AMERICAN CORRECTIONAL ASSOCIATION

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**Before the
Federal Communications Commission
Washington, DC 20554**

Promoting Technological Solutions)
to Combat Contraband Wireless Device)
Use in Correctional Facilities)

GN Docket No. 13-111

**REPLY COMMENTS OF
THE AMERICAN CORRECTIONAL ASSOCIATION**

The American Correctional Association would like to re-emphasize its original comments and echo the comments submitted by so many of the state correctional systems, including Delaware, Indiana, Oklahoma, Maryland, Minnesota, Texas and California and state that contraband cell phones within correctional facilities are a clear and present danger to the public and the staff and to facility security. Contraband cell phone use in prisons is an issue of great concern to the entire corrections profession and we urge the FCC to take it very seriously and issue regulations that will actually help to solve this problem.

Like the Commissioner of Corrections in Delaware and others in corrections, we support any and all measures that will help facilitate the development of multiple technologies. It is critical that we in corrections be given every possible tool in the toolbox to combat this problem. As the Oklahoma Corrections Professionals so aptly stated, contraband cell phone use allows offenders to coordinate disturbances. Data capabilities grant them access to staff addresses and information about other offenders, not to mention unmonitored communications with others outside of the facility.

The problem is only getting worse! The California Department of Corrections and Rehabilitation reports having found nearly 12,000 phones in 2012 and submits that “virtually every search of a prison housing unit results in discovery of cell phones and/or components of them.” California is not alone. States all over the country are experiencing similar challenges and results.

Let it be known by the Commission that contraband cell phones are not being used as a substitute for costly inmate phone systems. Offenders use smart phones to continue criminal activities, to view and distribute pornography and even worse to harass victims, prosecutors and judges alike. As the CDCR reports, there were as many as 107 contacts made by offenders and victims in 2012 and 2013. This is completely unacceptable!

The American Correctional Association agrees with the Indiana Department of Corrections and the Maryland Department of Public Safety and Correctional Services in that there is no single solution that will solve this problem especially given that correctional systems are operating with limited resources. As they have said, the real problem for corrections is finding the most cost-effective solution for facilities that may vary in size, location and physical characteristics.

Further, we join with the Indiana Department of Corrections in urging the Commission to do everything it possibly can to encourage competition between companies providing managed access systems such that MAS with greater competition will produce improved designs at the most reasonable cost while enhancing facility security.

Like Maryland's Department of Public Safety and Correctional Services, we believe it is important to weigh the benefits of blocking contraband cell phone signals and avoiding interference with legitimate and legal signals from local residents and businesses. Of course, the best way to find this balance is to allow and facilitate further and ongoing testing of all available technologies.

While we support the use of Managed Access Systems, further development of them and deployment as deemed necessary by correctional agencies, we would discourage the Commission from viewing managed access as the best solution or even as the No.1 option to solving this problem. MAS have their limitations and are quite cost prohibitive to implement on a broad scale.

ACA joins with the Maryland DPSCS and others in asking that the Commission standardize and simplify the process by which carriers receive and process requests for termination of services. It is equally as important that the Commission streamline the application process for spectrum lease agreements as much as possible.

The American Correctional Association also shares the concerns of GTL and seconded by Marcus Spectrum Solutions regarding MAS. We agree that the Commission should implement requirements that ALL CMRS carriers MUST agree to managed access leases of their spectrum if it is technically feasible in a specific installation and that CMRS carriers provide sufficient advance notice to MAS operators with the carrier's service area when any technical changes to the CMRS network will be made.

Regarding jamming of cellular signals, the American Correctional Association remains supportive of its authorization within the strict confines of a correctional facility. We believe, like GTL and others, that §333 was not intended to criminalize jamming or that the FCC is limited in its ability to authorize jamming if it is in the public interest, particularly if the cellular signals being jammed are illegal signals – such as those originating from a contraband cell phone inside of a correctional facility.

Simply stated, jamming of legal signals is illegal. Jamming of illegal signals should be legal and even supported by the Federal Communications Commission! Any and all cell phone signal originating from inside a correctional facility – including E-911 – are illegal signals. They can and should be disrupted in all circumstances! The Commission, we believe, is not only within its authority to allow such disruptions, but it is obligated to do so in the public interest of safety!

Continuing on this point, the American Correctional Association would like to express its support for immediate termination of service by cellular carriers upon notification by any and all public safety agencies. Any delay or failure to comply by the carriers with

such termination, we believe, should result in the most severe penalties and/or fines. The American Correctional Association is discouraged by those in the wireless industry who would hesitate or even refuse to comply with such basic requests from public safety agencies. We find it reprehensible that carriers, who are forbidden by law from knowingly facilitating illegal phone calls, should require court orders before terminating service to contraband cell phones! The Commission should adopt regulations to this end and do what is best for public safety! We understand cellular carriers concerns regarding liability and encourage the Commission to adopt rules granting them protections while acting in good faith and for public safety. Such a rule, combined with contractual language agreed to by the carriers and their customers should satisfy this concern sufficiently.

The American Correctional Association was impressed by the comments of NTCH, Inc. We support their idea of “quiet zones” for correctional facilities akin to the Commission’s current treatment of radio astronomy and other similar research facilities. This idea only mirrors what is already being done legally and effectively for other purposes. As suggested by NTCH, Inc., state and local correctional agencies could request such a designation by the FCC for the area immediately surrounding designated facilities. The concept relies on the correctional agency designated service provider(s) to “bear the expense and take the responsibility of preventing unauthorized transmissions.” As NTCH, Inc. states, “This system would effectively preclude all unauthorized phones from making calls while permitting authorized ones to be completed without a cumbersome and perhaps impossible process of getting all affected carriers to agree to lease their spectrum to a single entity. This concept, NTCH, Inc believes and ACA agrees, provides a solution whereby “modest diminution of rights which the cellular carriers would experience far outweighs the benefits to the public.”

A similar approach, which the American Correctional Association also supports, is offered by Marcus Spectrum Solutions. It suggests that Geolocation-Based Denial, a system wherein correctional administrators can petition the Commission to declare correctional facilities outside of the authorized service area of all CMRS carriers, given that said facility meets certain specific criteria such as 300 meters of space in all directions. This approach puts more of the impetus on carrier expertise and technologies, rather than the taxpayers and/or budget restricted public safety agencies.

The American Correctional Association does not endorse any one technology or approach in the fight to eliminate contraband cell phone use in correctional facilities. We stand united with any and all agencies, organizations, companies or advocates interested in solving this very serious public safety problem! We believe that it will require a united effort on the part of the federal government, state and local

correctional agencies and professionals, cellular carriers, technology companies, engineers, victim advocates and others. Only with the cooperation of each and every stakeholder will we be able to move forward and find solutions. We sincerely hope that the Federal Communications Commission will begin to take the necessary steps to facilitate this cooperation and to help with the further development, proliferation and deployment of each and every available technology. We urge the Federal Communications Commission to remove as many barriers to successful and effective implementation as possible and to allow correctional agencies to use of every possible tool in the toolbox. Public safety should be the Commission's top priority in establishing rules to eliminate contraband wireless device use in correctional facilities.

Respectfully submitted,

A handwritten signature in blue ink that reads "James A. Gondles, Jr." with a stylized flourish at the end.

James A. Gondles, Jr.,
Executive Director

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